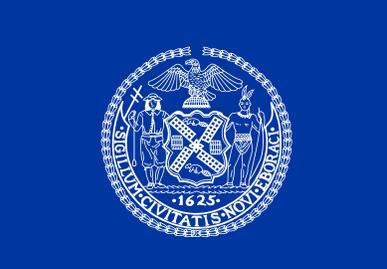




NEW YORK CITY CAPITAL PROCESS REFORM TASK FORCE

NYC

Initial Recommendations



Mayor Eric Adams and First Deputy Mayor Lorraine Grillo convened a Capital Process Reform Task Force in April 2022 to undertake a comprehensive review of the city’s capital process—from project initiation to closeout—and to develop recommendations for reforming capital project delivery with the goals of reducing project completion time, saving taxpayer dollars, enhancing participation and inclusion, and building capacity to address emerging needs.

The Task Force brings together a group of individuals with different expertise in the capital process, including construction contractors, design professionals, labor leaders, several City agencies, and New York City Comptroller Brad Lander and his office.

Capital Process Reform Task Force members

- **Michael A. Capasso**, CEO & President, C.A.C. Industries, Inc.
- **Ali Chaudhry**, Senior Vice President and Chief of Development and Government Relations, AECOM
- **Louis Coletti**, President and CEO, Building Trades Employers’ Association
- **Raquel Diaz**, Public Sector Area Manager, Gilbane Building Company
- **Reverend Jacques Andre DeGraff**, Chair, MBE Leadership Summit
- **John T. Evers**, President and CEO, American Council of Engineering Companies of New York
- **Alaina Gilligo**, Head of Strategic Partnerships, Gilbane Building Company
- **Shari C. Hyman**, Vice President, Public Affairs, Turner Construction Company
- **Gary LaBarbera**, President, Building and Construction Trades Council of Greater New York
- **Sam Padilla**, President, Padilla Construction Services, Inc.
- **Taylor Palmer**, Government Relations Manager, American Council of Engineering Companies of New York
- **Nayan Parikh**, President, New York Tri-State Chapter of National Association of Minority Contractors
- **Benjamin Prosky**, Executive Director, American Institute of Architects New York Chapter and The Center for Architecture
- **Arthur Rubinstein**, President, Skyline Steel Corp. and Chair, Subcontractors Trade Association Legislative Committee
- **Gus Sanoulis**, Vice President of Construction, Con Edison
- **Dan Sawh**, Owner and President, Haydan Consultants Inc.
- **Dan Symon**, Associate Partner, Gartner; Former MOCS Director
- **Robert G. Wessels**, Executive Director, The General Contractors Association of New York

New York City Comptroller's Office

New York City Agencies

- Department of Design and Construction (DDC)
- New York City Department of Parks and Recreation (DPR)
- New York City Department of Environmental Protection (DEP)
- New York City Department of Transportation (DOT)
- New York City Economic Development Corporation (EDC)
- New York City School Construction Authority (SCA)
- New York City Office of Management and Budget (OMB)
- New York City Law Department
- Mayor's Office of Contract Services (MOCS)



New York City Law Department

The Task Force is managed by the Mayor's Office of Policy and Planning. The Task Force's work is organized by six working groups that focus on major components of the capital construction process:

Improve the Project Pipeline	Reform Procurement
Streamline Approvals	Grow the Number of New Yorkers Who Can Participate
Manage Projects More Effectively	Performance Management and Public Reporting

The Task Force will release final recommendations in December 2022, including legislative priorities for the 2023 state legislative session. This document contains the Task Force's initial recommendations.



Improve the Project Pipeline

The working group tasked with improving the project pipeline is focusing on how City agencies might better prepare for advancing specific projects by properly defining project scope, ascertaining the status of the site conditions at project locations, and compiling better asset condition information.

Two initial recommendations generated from this group's analysis focus on enhancing a budgetary tool that allows agencies to better scope projects and increasing coordination with elected officials on discretionary funding. In the coming months, the group will consider potential improvements to capital eligibility requirements and processes, ways to enhance agency ability to estimate project costs, and how the City might compile better asset condition information.

Capital Project Scope Development (CPSD) Fund

- *Issue:* A thorough evaluation of a proposed capital project's scope and potential risks, including necessary site investigation and testing, is essential to setting up a complex project for success. The CPSD Fund was established by OMB as a vehicle for agencies to access expense funding to help obtain more detailed scope and design information to better position a large capital project for funding approval. Complex projects that have undertaken CPSD studies have been able to get started faster, cut down on design time, and improve design quality.
- *Initial Recommendation:* Double the use of the CPSD Fund (from 10 to 20 projects per year) to provide more resources for early project investigation that will reduce the likelihood for change orders, cost overruns, and schedule delays. Because change orders can take anywhere between six to 12 months to process, fewer change orders on projects that benefit from the CPSD Fund will result in several months in time savings. These several months will be especially meaningful for smaller firms and M/WBEs that may have less capacity in their budget than larger firms.



Capital Project Coordination Expos

- *Issue:* Elected officials play an important role in funding new capital projects, and it is essential that they receive upfront education and information to enable refinement of project design, scope, and cost.
- *Initial Recommendation:* Host Capital Project Coordination Expos early in the City's budget cycle to provide an opportunity for elected officials and City agencies to discuss ideas for potential projects that may be pursued in the ensuing budget process. By facilitating a forum where technical feedback can be provided on a range of specific feedback ideas, the City will better position capital projects for budgetary approval and successful implementation.

Streamline Approvals

The working group tasked with streamlining approvals is focusing on finding efficiencies within City processes. For example, every capital project needs a Certificate to Proceed (CP) from OMB to ensure it is capitably eligible, sufficiently funded, and consistent with the scope for which it was originally approved.

The initial recommendation generated from this group's work focuses on how to make the CP process more efficient. The group is also working on the change order process including how to make the process faster and more transparent. This will have cascading effects such as faster payment to vendors and increased industry confidence in doing business with the City.

Template and Response Times for the CP Process

- *Issue:* The current CP process can be prolonged and involves substantial back-and-forth between OMB and City agencies, due to lack of standard templates and information.
- *Initial Recommendation:* Pilot a standardized template for agencies to submit project information to OMB to reduce the likelihood of missing information and ensure that OMB is better equipped to approve the initiation of a capital project. In addition, establishing a standard response timeline between OMB and agencies will improve communication and expedite review. This pilot will cut at least three weeks from the current two- to three-month process.



Manage Projects More Effectively

The Manage Projects More Effectively working group is finding ways to deliver projects more strategically—better, faster, and cheaper.

Initial recommendations generated from this group’s work focus on expanding pilot programs that have worked well at DDC so all capital agencies can experience the time savings and cost savings of these initiatives. In addition to expanding these successful pilots to other agencies, in the coming months this group will focus on expanding the eligible categories of allowances for unforeseen conditions in certain construction contracts, prompt payment to vendors, and training and empowering agency personnel.

Early Construction Completion Incentives

- *Issue:* Slippage in project schedules delays benefits to the public, costs money, and erodes confidence in the City’s ability to deliver capital projects.
- *Initial Recommendation:* Extend to other agencies a DDC pilot program that offers financial incentives for contractors to meet critical project milestones on a targeted basis. On average, DDC shaved an additional two months off already accelerated project schedules and saved an average of 23 percent per project of the anticipated costs.

Expanded Work Allowance

- *Issue:* Project budgets do not include an allowance to address unforeseen field conditions in the construction phase of a project, necessitating a lengthy change order approval process.



- *Initial Recommendation:* Extend to additional agencies an Expanded Work Allowance agreed upon at contract inception for common contract change orders due to unforeseen challenges in the field. DDC has successfully piloted Expanded Work Allowance, paying Expanded Work Allowance change orders in less than three months and saving three to nine months off the typical change order payment time. For example, on a \$10 million comprehensive library renovation in Brooklyn, nine Expanded Work Allowance change orders totaling \$400,000 were used to address unforeseen concrete, framing, and insulation work, mitigating months of potential schedule delays, and the project was delivered on time.

Price Adjustments for Fuel, Steel, and Asphalt

- *Issue:* Sharp and unexpected price increases for materials that may result from inflationary pressures, supply chain disruptions, or geopolitical factors, can strain capital project budgets.
- *Initial Recommendation:* Utilize price adjustment allowances based on New York State Department of Transportation Cost Index updates to offset unanticipated cost fluctuations.

Engineering Review to Optimize Cost Effectiveness

- *Issue:* City capital projects are costly, and there may be potential to improve outcomes and assess cost effectiveness even during construction.
- *Initial Recommendation:* By allowing contractors to use their technical knowledge to offer



project delivery recommendations during construction, DDC achieved \$2.6 million in cost savings on a \$114 million dollar Downtown Far Rockaway streetscape reconstruction project. The Task Force recommends expanding engineering reviews to other agencies to achieve similar results.

Coordination with Utilities

- *Issue:* Discussion with utilities occurs regularly on various capital projects but may not always yield positive results to advance a project.
- *Initial Recommendation:* Host quarterly meetings between senior leadership at City Hall and senior utility company executives to enhance coordination and avoid project delays. Delays related to utilities can cost the City \$100,000 - \$200,000 per month and can add between 6 and eighteen months to projects. Troubleshooting issues with utility infrastructure during capital projects will lead to faster, cheaper project delivery as decision-makers have a forum to resolve disputes.



Reform Procurement

The Reform Procurement working group is identifying ways to amend procurement laws and regulations to speed up projects without sacrificing quality and appropriate oversight.

Initial recommendations generated from this group's work focus on advocating for state legislation that would provide additional alternative project delivery tools to the City and updating outdated requirements that necessitate unnecessary reviews. In the coming months, the group will focus on recommendations to reform outdated mayoral executive orders, laws, and rules, as well as new legislation to boost participation by Minority and Women Owned Business Enterprises (M/WBEs).

Financial Control Board (FCB) Contract Review Threshold

- *Issue:* Both capital and expense contracts undergo a review if they are above a certain dollar value. The dollar thresholds that trigger contract review have not been updated in 35 years and, therefore, they do not reflect growth in the City's budget.
- *Initial Recommendation:* Request that the Financial Control Board increase the dollar threshold that triggers a review of contracts. The Task Force recommends increasing the threshold by five times, to reflect the commensurate increase in the size of the City's budget since 1987. This will save two weeks for every contract under the new threshold.

Electronic Bidding

- *Issue:* Currently, construction contractors must submit paper bids when they compete for City projects, whereas other governmental entities such as the New York State

Department of Transportation, Metropolitan Transportation Authority, and New Jersey Transit accept bids electronically.

- *Initial Recommendation:* Advance state legislation for electronic bidding so contractors can fully compete for city work through a single digital system. Such a change will bring efficiency to the procurement process while enabling greater access for M/WBEs. Paper bids add approximately two days to every bid processing time; electronic bids will allow the City and contractors to save money that would otherwise have been spent on preparing, mailing, opening, and tracking paper bids.

Public Hearing Threshold

- *Issue:* Currently, public hearings are required on procurements above \$100,000, a requirement that was set in 1989 and has not been updated since and which adds about three weeks to the procurement process for each contract undergoing a public hearing. Very few projects actually generate public comments.
- *Initial Recommendation:* Advocate for State legislation to give the City's Procurement Policy Board the ability to change the public hearing threshold and allow for an optimal way to provide public notice, rather than public hearings, for contracts above the threshold.

Progressive Design-Build

- *Issue:* Design Build is a proven alternative project delivery method that allows for exemplary construction and design collaboration in a way that fosters project excellence. State Law currently requires a two-step procurement process – one step for a request for



qualifications and another for a request for proposals.

- *Initial Recommendation:* Advocate for State legislation to give City agencies the ability to use progressive design-build. In progressive design-build, the City can quickly select a vendor before the full scope of the project has been established. This facilitates early-stage collaboration to investigate existing conditions, examine engineering and construction challenges, and agree on solutions before determining a final scope and price. DDC's current design-build projects are expected to cut years off a typical design-bid-build timeline, and progressive design-build will allow the City to see comparable time savings for a broader range of projects such as infrastructure projects with complex existing site conditions.

Construction Manager-Build and Construction Manager-at-Risk

- *Issue:* Existing state law requires public construction contracts to be awarded to the lowest responsible bidder, which restricts the City's ability to use alternative project delivery methods that may produce the best results for public works projects. Certain project delivery methods used under the COVID-19 emergency declaration resulted in accelerated procurement processes, project completion on time or ahead of schedule, and high rates of M/WBE participation.
- *Initial Recommendation:* Advocate for State legislation to give City agencies the authority to use CM-Build and CM-at-Risk during non-emergency times. CM-Build and CM-at-Risk are alternative delivery tools that reduce lengthy procurement processes, allow construction to begin while the design is still being developed, and foster early collaboration between designer and builder. Using CM-Build, DDC built COVID





testing sites in an average of seven days with 55% M/WBE utilization and built three permanent healthcare facilities, the COVID Centers of Excellence, in an average of 192 days (~six months) with 46% M/WBE utilization.

Grow the Number of New Yorkers Who Can Participate

This working group is focusing on ways that the City can sustain and increase M/WBE participation in the City's capital work and strengthen local and community hiring and workforce development initiatives.

Initial recommendations generated from this group's work focus on giving M/WBEs increased access to information and to key personnel in City agencies. In the coming weeks, the group will focus on identifying legislative proposals to address barriers to accessing insurance coverage, create effective M/WBE mentorship programs, and develop additional pathways to apprenticeship programs.

Future Projects and Procurement Document Database

- *Issue:* Currently, the City does not have a public-facing repository that includes upcoming projects to be solicited by the City during a specified time period, nor is there one easily-accessible location where registered contracts are posted.
- *Initial Recommendation:* Create a database that will give construction companies real-time insight into upcoming, active, and past city projects and procurements. This will give them a better roadmap to anticipate future opportunities and learn more about city procurements. Additionally, in conjunction with the changes to the public hearing threshold, this database will ensure that contractors and the public still have ongoing insight into the City's contracts.



M/WBE Small Purchase Threshold

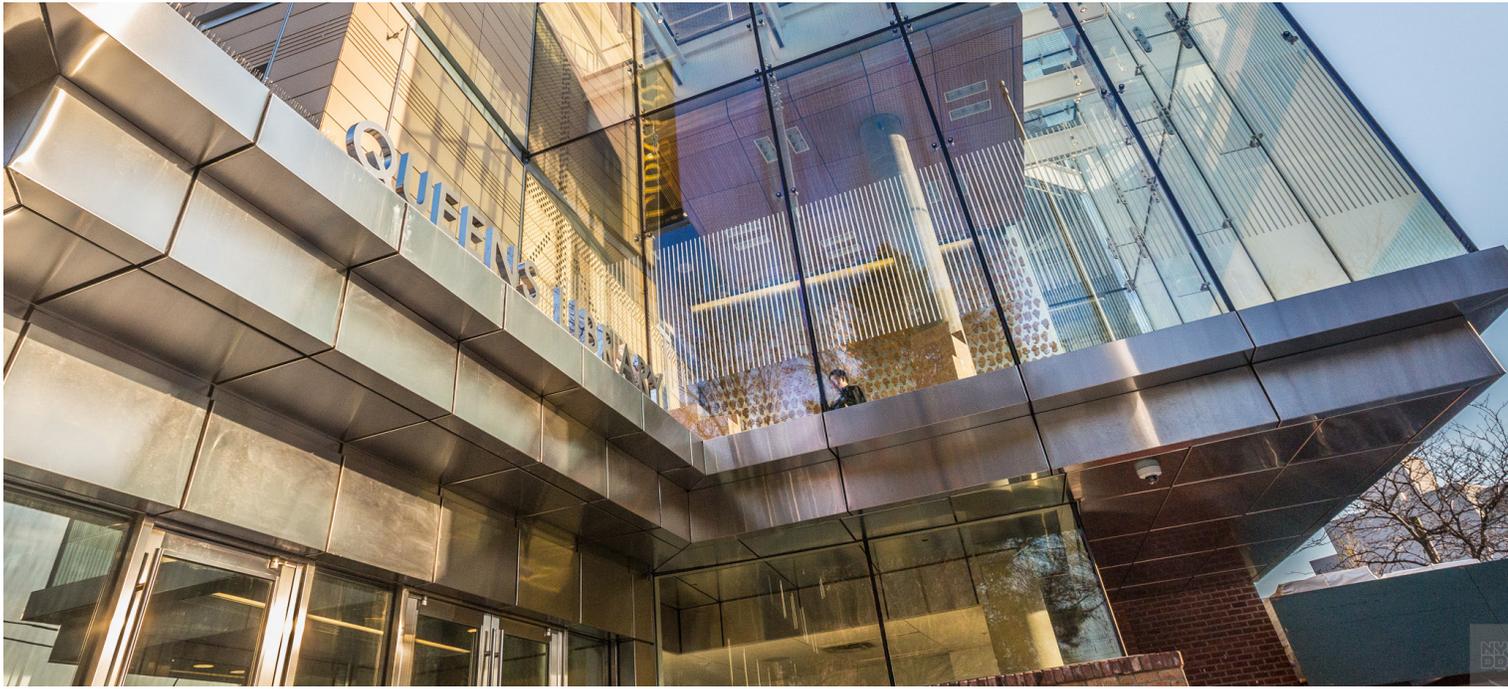
- *Issue:* Increasing M/WBE participation in City capital work requires a multi-faceted strategy to provide more opportunities. The Task Force applauds the State Legislature and Governor for enacting legislation to increase the M/WBE small purchase threshold for City contracts to \$1 million. The Task Force recognizes that additional opportunities could be realized if parity was established with other New York public entities that have a higher threshold to boost M/WBE participation for their contracts.
- *Initial Recommendation:* Advocate for State legislation to increase the M/WBE small purchase threshold for City contracts to \$1.5 million to match the current threshold used by the Metropolitan Transportation Authority.

Ombudsperson

- *Issue:* Contractors may face particular challenges in the course of a project that need to be addressed by an agency official. Subcontractors and M/WBEs may not have a seamless communication channel to resolve disputes or obtain information on a project. Direct access to a senior agency official or, in some cases, through or in conjunction with a general contractor, could be effective in surfacing issues of mutual concern that may be stymieing a project's progress.
- *Initial Recommendation:* Designate an existing senior employee in each agency that performs or oversees capital work to serve as an ombudsperson to support contractors throughout the capital process. M/WBEs and subcontractors face particular challenges in the course of a capital project, and having one point of contact to address needs could save weeks that otherwise may have been lost to miscommunication.

Project Labor Agreement (PLA) Educational Sessions

- *Issue:* M/WBEs and other firms may be awarded a City contract but may be unfamiliar with managing a project under a PLA.



- *Initial Recommendation:* In partnership with the Building and Construction Trades Council of Greater New York and the Building Trades Employers Association, conduct educational information sessions to engage with M/WBEs about PLA requirements. It is crucial that M/WBEs have opportunities to learn more about how PLAs work, both in terms of opportunities for small firms, opportunities for workers, and compliance.

Performance Management and Public Reporting

This working group is focused on implementing a Capital Project Tracker as mandated by Local Law 37 of 2020, sponsored by then-Council Member Brad Lander. The tracker will increase transparency and accountability by creating a single interactive portal for the public to view the status of projects in the City's capital portfolio. Launch is scheduled for Spring 2023 with rollout of additional features throughout the year.

For the first time ever, all projects from major capital agencies will be reported through a consolidated, user-friendly tracker. The tracker is being developed through a collaborative interagency process and will provide insights into project timelines, schedule delays, and cost overruns, as well as the location and background of each project. To date, the working group has focused on the tracking tool's complex backend development and has begun designing the public-facing website itself.